

AMENDED IN SENATE JUNE 15, 2006

AMENDED IN ASSEMBLY JANUARY 19, 2006

AMENDED IN ASSEMBLY APRIL 26, 2005

CALIFORNIA LEGISLATURE—2005–06 REGULAR SESSION

ASSEMBLY BILL

No. 1558

Introduced by Assembly Member Wolk
(Coauthors: Assembly Members Jerome Horton and Mullin)

February 22, 2005

An act to add Chapter 3.5 (commencing with Section 83500) to Title 9 of the Government Code, relating to the Fair Political Practices Commission, and making an appropriation therefor.

LEGISLATIVE COUNSEL'S DIGEST

AB 1558, as amended, Wolk. Fair Political Practices Commission: pilot project: financial interests in public contracts.

Existing law, the Political Reform Act of 1974, provides for the comprehensive regulation of campaign finance and specifies requirements relating to certain issues of governmental ethics. The Fair Political Practices Commission is given primary responsibility for the administration and implementation of the act. Among its duties, the commission issues opinions upon request relating to issues under the act, and a person acting in good faith on one of these opinions is not subject to civil or criminal penalties for so acting, provided that the material facts are as stated in the opinion request. Existing law provides for a separate set of statutes forbidding specified public officials and employees from being financially interested in any contract made by them in their official capacity, or by any body or board of which they are members.

This bill, commencing July 1, 2007, would give the Fair Political Practices Commission similar authority to issue opinions with regard to the provisions that concern financial interests of public officials and employees in contracts to the authority they have to issue opinions concerning the Political Reform Act of 1974. It would provide procedures for the issuance of these opinions, and would make reliance on advice in one of these opinions evidence of good faith in any civil proceeding, as specified. It would specify that the commission shall have no enforcement authority under its provisions and that no local jurisdiction shall be required to participate in the opinion procedures. The bill would appropriate \$150,000 *from the General Fund* to the Fair Political Practices Commission for the 2007–08, 2008–09, and 2009–10 fiscal years for expenditure for purposes of the bill.

This bill would make these provisions inoperative on July 1, 2010, and would repeal them as of January 1, 2011.

The Political Reform Act of 1974, an initiative measure, provides that the Legislature may amend the act to further the act's purposes with a $\frac{2}{3}$ vote of each house and compliance with specified procedural requirements.

This bill, which would declare that it furthers the purposes of the act, would therefore require a $\frac{2}{3}$ vote.

Vote: $\frac{2}{3}$. Appropriation: yes. Fiscal committee: yes.
State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 3.5 (commencing with Section 83500)
2 is added to Title 9 of the Government Code, to read:

3
4 CHAPTER 3.5. SECTION 1090 PILOT PROJECT

5
6 83500. This chapter may be cited and shall be known as the
7 Government Code Section 1090 Pilot Project to Enhance
8 Compliance with the Ban on Public Officials Having a Financial
9 Interest in Public Contracts.

10 83501. The Fair Political Practices Commission shall be the
11 state agency responsible for implementing the Government Code
12 Section 1090 Pilot Project to Enhance Compliance with the Ban

1 on Public Officials Having a Financial Interest in Public
2 Contracts.

3 83502. During the pilot period, in addition to the authority
4 granted to the commission under Section 83114, the commission
5 shall have the authority to provide written opinions on the
6 application of Sections 1090, 1091, 1091.1, 1091.2, 1091.3,
7 1091.4, and 1091.5 to public officials as follows:

8 (a) Any person may request the commission to issue an
9 opinion with respect to his or her duties under Sections 1090,
10 1091, 1091.1, 1091.2, 1091.3, 1091.4, and 1091.5.

11 (b) The commission shall, within 14 days, either issue the
12 opinion or advise the person who made the request whether an
13 opinion will be issued. *The Commission shall decline to issue an*
14 *opinion relating to past conduct.*

15 (c) The commission shall forward a copy of the opinion
16 request to the Attorney General's office, the local district
17 attorney, and local or agency legal counsel for consultation prior
18 to proceeding with a draft opinion.

19 (d) When issuing the opinion, the commission shall either
20 provide to the person who made the request a copy of any written
21 communications submitted by the Attorney General or a local
22 district attorney regarding the opinion or advise the person that
23 none of these written communications was submitted. *The failure*
24 *of the Attorney General or a local district attorney to submit a*
25 *written communication pursuant to this subdivision shall not give*
26 *rise to any inference that the Attorney General or local district*
27 *attorney agrees with the opinion.*

28 (e) The opinion, when issued, ~~shall be~~ *may be offered as*
29 *evidence of good faith conduct in any civil proceeding regarding*
30 *these provisions, if the requester disclosed truthfully all the*
31 *material facts; and committed the acts complained of in reliance*
32 *on the opinion. The commission's opinions shall be are public*
33 *records and may from time to time be published. The issuance of*
34 *an opinion shall not preclude a criminal prosecution.*

35 (f) The commission shall have no enforcement authority under
36 the pilot project.

37 (g) No local jurisdiction shall be required to participate in the
38 pilot project.

39 83503. The sum of one hundred fifty thousand dollars
40 (\$150,000) is hereby appropriated *from the General Fund* to the

1 Fair Political Practices Commission for the 2007–08, 2008–09,
2 and 2009–10 fiscal years for expenditure to fund the pilot project
3 established under this chapter.

4 83504. This chapter shall become operative on July 1, 2007.

5 83505. This chapter shall become inoperative on July 1,
6 2010, and, as of January 1, 2011, is repealed, unless a later
7 enacted statute, that becomes operative on or before January 1,
8 2011, deletes or extends the dates on which it becomes
9 inoperative and is repealed.

10 SEC. 2. The Legislature finds and declares that the provisions
11 of this act further the purposes of the Political Reform Act of
12 1974 within the meaning of subdivision (a) of Section 81012 of
13 the Government Code.